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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,608	09/02/2003	Ken Belanger	289.04	3689

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EXAMINER
SHERALI, ISHRAT I

ART UNIT	PAPER NUMBER
2621	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

    4a) Of the above claim(s) *1-16* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *17-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>04 June 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Election/Restriction

1.   Restriction to one of the inventions is required under 35 U.S.C 121:

I.   Claims 1-16, drawn to analysis and comparison of images based on characteristic of color space 382, subclass 165.

II.   Claims 17-35, drawn to identification and retrieving/locating image, classified in class 382, subclass 305.

2.   The inventions are distinct, each from other because of the following reasons:

Inventions I and II are related as combination and subcombination. Invention II is the combination, and invention I being the subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combination (MPEP 806.05 (c)). In the instant case, the combination as claimed does not require the particulars of the subcombinations as claimed in Group I because the detail provided in subcombination claims 1-16 require, selecting at least one characteristic of a color space and is not recited in combination claims 17-35. The subcombination has separate utility such as color pixel transformation or color pixel correction for outputting the color image to display device or printer.

3.   Because these inventions are distinct for the reasons given above and acquired a separate status in art as shown by their different classification and have divergent fields of search, restriction for examination purpose as indicated is proper.

4.   A telephone call was made to Mr. Paul Tomita on 1/31/2005 to request an oral

election to the above restriction requirement. Examiner informed Mr. Tomita that similar

restriction requirement was made in the parent application (09/271,112) of the instant

applicant and Group I was elected. Since Group I was elected in the parent application

and prosecuted, Mr. Paul Tomita elected Group II without traverse.   Detailed action on

the elected claims 17-35 follows below.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 17-22, 25, 26, 28-35 are rejected under 35 USC § 102 (e) as being

anticipated by Lin (US 6,108,437).

Regarding claim 17, Lin discloses identifying a copy of an image (Lin, col. 5, lines

63-67, states "Face processor extracts set of features from the image output by camera

and compares these features with a database of features stored in face recognition

server. Upon identification of the face" which corresponds to identifying a copy of an

image); comprising:

identify a first image (Lin col. 6, lines 15-18, Face recognition server 40 stores a

database containing facial characteristics of potential candidate for matching".

Database containing facial characteristics of potential candidate for matching"

corresponds to identify a first image of potential candidate for matching);

storing identification information for the first image (Lin col. 6, lines 15-18, Face

recognition server 40 stores a database containing facial characteristics of potential

candidate for matching" Database containing facial characteristics of potential candidate

corresponds to storing identification information [facial characteristics] for the first

image);

identifying a second image (Lin, col. 5, lines 63-65, states "Face processor

extracts set of features from the image output by camera" which corresponds to

identifying a second image); and

comparing identification information for the second image with the stored

identification information for the first image (Lin, col. 5, lines 63-67, states "Face

processor extracts set of features from the image output by camera and compares

these features with a database of features stored in face recognition server. Upon

identification of the face". This corresponds to);

if a predetermined criteria is met the second image is identical to the first image

(Lin, col. 6, lines 18-25, states "Face recognition server compares the features extracted

by face processor and finds if possible statistically a matching face" which corresponds

to if a predetermined criteria is met the second image is identical to the first image).

Regarding claims 18-19, Lin discloses first and second images are compared

manually and automatically (Lin, col. 5, lines 63-67, states "Face processor extracts set

of features from the image output by camera and compares these features with a

database of features stored in face recognition server. This corresponds to first and

second images are compared automatically. Lin, col. 6, lines 37-47, states "Face

position register determines if the face is aligned. If there is misalignment, a message

can be sent interactive panel to display a message for subject to align his head". This

alignment of head by subject for image registration for comparison with images in the

database corresponds to process of manually comparing images).

Regarding claim 20-21, Lin discloses first and second images are the first and

second images are automatically retrieved from electronic medium (Lin, col. 5, lines 63-

67, states "Face processor extracts set of features from the image output by camera

and compares these features with a database of features stored in face recognition

server". First image is retrived from database and second image is retrieved from

camera by face processor system as shown in figure 1 corresponds to first and second

images are retrieved from electronic medium).

Regarding claim 22, Lin discloses search engine to locate the first or second

image (Lin, col. 5, lines 63-67, states "Face processor extracts set of features from the

image output by camera and compares these features with a database of features

stored in face recognition server". Comparing these features with a database involves

search engine to search in the database).

Regarding claim 25, 29 and 33, Lin discloses locating a second image from an electronic network (Lin, col. 5, lines 63-67, states "Face processor extracts set of features from the image output by camera and compares these features with a database of features stored in face recognition server. Upon identification of the face". Database of features stored in face recognition server corresponds to locating a second image from an electronic network and in Fig 1 Lin shows network of camera, face processor, and face recognition "server");

determining a selected characteristics of the second image (Lin col. 6, lines 15-18, Face recognition server 40 stores a database containing facial characteristics of potential candidate for matching". Database containing facial characteristics of potential candidate for matching corresponds to determining a selected characteristics of the second image);

comparing the selected characteristics of the second image with selected characteristics of a first image (Lin, col. 5, lines 63-67, states "Face processor extracts set of features from the image output by camera and compares these features with a database of features stored in face recognition server corresponds to comparing the selected characteristics of the second image with selected characteristics of a first image)

determining whether the first and second image are identical based upon the comparison of the selected characteristics (Lin, col. 6, lines 18-25, states "Face recognition server compares the features extracted by face processor and finds if possible statistically a matching face" which corresponds to determining whether the

first and second image are identical based upon the comparison of the selected

characteristics).

if a predetermined criteria is met the second image is identical to the first image

(Lin, col. 6, lines 18-25, states "Face recognition server compares the features extracted

by face processor and finds if possible statistically a matching face" which corresponds

to if a predetermined criteria is met the second image is identical to the first image).

Regarding claims 26 Lin discloses providing notification of identical first and

second images are identical (Lin, col. 7, lines 17-20, "if subject is recognized door can

be unlock to allow the person access to building". This corresponds to providing

notification of identical first and second images are identical);

Regarding claim 28, Lin discloses generating a database for identified images

(Lin, col. 5, lines 63-67, "compares these features with a database of features stored in

face recognition server". This corresponds to database of identified images).

Regarding 30, Lin discloses image characteristics are selected from group consist

of image usage characteristic (Lin, col. 7, lines 2-6 "Face recognition server stores

features extracted for each potential candidate". Feature extracted from potential

candidate image corresponds to image usage characteristic).

Regarding claim 31, Lin discloses storing identification information for an image

(Lin, col. 5, lines 63-67, states "Face processor extracts set of features from the image

output by camera and compares these features with a database of features stored in

face recognition server". Features from face corresponds to identification information for

an image).

Regarding claim 32, Lin discloses comparing at least one predetermined criteria (Lin, col. 6, lines 18-25, states "Face recognition server compares the features extracted by face processor and finds if possible statistically a matching face" which corresponds to comparing at least one predetermined criteria).

Regarding claim 34, Lin discloses search engine (Lin, col. 5, lines 63-67, states "Face processor extracts set of features from the image output by camera and compares these features with a database of features stored in face recognition server". Comparing these features with a database involves search engine to search in the database).

Regarding claim 35, Lin disclose search application identify and locate images (Lin, col. 5, lines 63-67, states "Face processor extracts set of features from the image output by camera and compares these features with a database of features stored in face recognition server". Comparing features with a database of features stored in face recognition server corresponds to search application identify and locate images in the database).

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 6,108,437) in view of Hazlehurst (US 5,974,412).

       Regarding claims 23-24, Lin locate and identify images (Lin, col. 5, lines 63-67, states "Face processor extracts set of features from the image output by camera and compares these features with a database of features stored in face recognition server" This corresponds to locate and identify images .) and Lin also discloses Internet for locate and identify images (Lin in col. 7, lines 24-26, states "recognized subject can be authorized to purchase goods on the internet". This means that Lin system can locate and identify image on the internet).

       Lin has not explicitly disclosed spider.

       In the same field of endeavor Hazlehurst discloses spider (Hazlehurst, col. 7, lines 25-30, states "medical Web sites gathered by World Wide Web spider". This corresponds to storing web sites gathered by World Wide Web spiders).

       Therefore it would have been obvious at the time the invention was made to use spiders as shown by Hazlehurst in the system of Lin's database because such a system can gather and manage information in the database from variety of different sources thereby providing variety of ways the result of identification may be utilized.

9.   Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 6,108,437) in view of Peter (US 4,246,568).

Regarding claim 23, Lin discloses notification (Lin, col. 7, lines 17-20, "if subject is recognized door can be unlock to allow the person access to building". This corresponds to providing notification).

Lin has not explicitly shown using alarm as notification.

In the same field of endeavor Peterson discloses using alarm as notification (Peterson, col. 3, lines 38-43, "the Go signal can be used to open the door an access door for authorized persons. The NO-GO signal may be sound an alarm).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use alarm as notification in the system of Lin because such a system provide alerting authority of attempt of unauthorized entry in the facility.
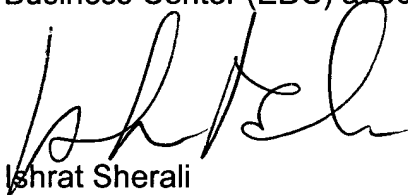
Contact Information

10.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherali Ishrat whose telephone number is 703-308-9589. The examiner can normally be reached on 8:00 AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Au Amelia can be reached on 703-308-6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

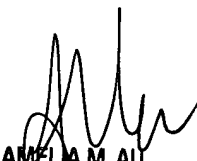Business Center (EBC) at 866-217-9197 (toll-free).

Ishrat Sherali

Patent Examiner

Group Art Unit 2621

February 1, 2005

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